

APR 09 2013

Board of Vocational Nursing
and Psychiatric Technicians

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8
9 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN-2011-1921

12 **FREBA EBRAHIM**
13 **24 Winterfield Road**
Irvine, California 92602

14 **Vocational Nurse License No. VN 155050**

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
21 Technicians, Department of Consumer Affairs.

22 2. On or about January 15, 1992, the Board of Vocational Nursing and Psychiatric
23 Technicians issued Vocational Nurse License Number VN 155050 to Freba Ebrahim
24 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to
25 the charges brought herein and will expire on September 30, 2013, unless renewed.

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4. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

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Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

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Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to

1 determine if the conviction is substantially related to the qualifications,
2 functions, and duties of the licensee in question.

3 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
4 and 'registration.'

5 9. Section 2878 of the Code states:

6 The Board may suspend or revoke a license issued under this chapter [the
7 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of
8 the following:

9 (a) Unprofessional conduct, which includes, but is not limited to, the
10 following:

11 ...

12 (f) Conviction of a crime substantially related to the qualifications,
13 functions, and duties of a licensed vocational nurse, in which event the record
14 of the conviction shall be conclusive evidence of the conviction.

15 ...

16 (j) The commission of any act involving dishonesty, when that action is
17 related to the duties and functions of the licensee....

18 10. Title 16, California Code of Regulation (hereinafter "CCR") section 2521 states:

19 For the purposes of denial, suspension, or revocation of a license pursuant
20 to Division 1.5 (commencing with Section 475) of the Business and Professions
21 Code, a crime or act shall be considered to be substantially related to the
22 qualifications, functions or duties of a licensed vocational nurse if to a
23 substantial degree it evidences present or potential unfitness of a licensed
24 vocational nurse to perform the functions authorized by his license in a manner
25 consistent with the public health, safety, or welfare. Such crimes or acts shall
26 include but not be limited to those involving the following:...

27 (e) Conviction of a crime involving fiscal dishonesty....

28 11. Title 16, CCR, section 2522 states:

When considering a) the denial of a license under Section 480 of the
Business and Professions Code, b) the suspension or revocation of a license on
the ground that a licensee has been convicted of a crime, or c) a petition for
reinstatement of a license under Section 2787.7 of the Business and Professions
Code, the Board in evaluating the rehabilitation of an individual and his or her
present eligibility for a license, will consider the following criteria:

(1) Nature and severity of the act(s), offense(s), or crime(s) under
consideration.

(2) Actual or potential harm to the public.

(3) Actual or potential harm to any patient.

- 1 (4) Overall disciplinary record.
- 2 (5) Overall criminal actions taken by any federal, state or local agency or
3 court.
- 4 (6) Prior warnings on record or prior remediation.
- 5 (7) Number and/or variety of current violations.
- 6 (8) Mitigation evidence.
- 7 (9) In case of a criminal conviction, compliance with terms of sentence
8 and/or court-ordered probation.
- 9 (10) Time passed since the act(s) or offense(s) occurred.
- 10 (11) If applicable, evidence of proceedings to dismiss a conviction
11 pursuant to Penal Code section 1203.4.
- 12 (12) Cooperation with the Board and other law enforcement or regulatory
13 agencies.
- 14 (13) Other rehabilitation evidence.

15 **COST RECOVERY**

16 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
20 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
21 included in a stipulated settlement.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(May 13, 2009 Conviction of Burglary and Petty Theft)**

24 13. Respondent is subject to disciplinary action under Code sections 490 and 2878,
25 subdivision (f), for conviction of a crime that is substantially related to the qualifications,
26 functions and duties of a licensed vocational nurse in that on May 13, 2009, in the *People of the*
27 *State of California, v Freba Ebrahim*, Orange County Superior Court-Central Justice Center, Case
28 No. 09CM00106, Respondent was convicted on her guilty plea of commercial burglary, in
violation of Penal Code section 459-460(b), and of petty theft, in violation of Penal Code section
484(a)-488, both misdemeanors.

1 14. The circumstances are as follows. On or about December 21, 2008, Officer G. of the
2 Tustin Police Department was dispatched to the Ralphs Grocery Store in Tustin. S.G., the store
3 manager, contacted the Tustin Police Department after observing Respondent enter the store with
4 a light blue diaper bag. S.G. recognized Respondent from previous occasions when Respondent
5 had been in the store and was suspected of stealing items. S.G. explained that she had not called
6 the police prior to December 21, 2008. S.G. stated that she saw Respondent in the produce
7 section bagging vegetables and then placing them in the diaper bag that was inside the shopping
8 cart she was pushing. Respondent then went to the front of the store and stood with her cart by
9 the ATM machine. Respondent appeared to be looking around the store to see if anyone was
10 watching her. She then covered the diaper bag with a newspaper and pushed the shopping cart
11 with the diaper bag in it out of the store. Respondent passed by two open check stands and made
12 no attempt to pay for the items in the diaper bag. S.G. followed Respondent out of the store,
13 grabbed the cart and told Respondent to come back inside the store. Respondent followed S.G.
14 back in the store and tried to grab the diaper bag away from S.G. When Respondent could not
15 take the diaper bag away from S.G., Respondent ran to the parking lot. S.G. showed Officer G.
16 the diaper bag Respondent left behind.

17 15. Officer G. looked inside the diaper bag and found three "Earnings Statements" with
18 Respondent's name and address and two other documents with the name A.H., who was later
19 identified as Respondent's husband. The diaper bag also contained food [wonton] wrappers,
20 ground beef, a 64-ounce bottle of grape juice, radishes, green onions, cilantro and cucumbers.

21 16. Officer G. and Officer N. went to the address on the "Earnings Statement" and made
22 contact with Respondent. Respondent admitted she took some items and did not pay for them.
23 She stated she had no money but then later said she had approximately "twenty dollars."
24 Respondent kept asking to be let go and to be given a ticket instead. She stated that she did not
25 have enough money to cook a meal and that she promised herself she would never do this again,
26 but "today I had to do it." She stated that "it was a long time ago when I got caught before.
27 Something happened today, I did it. It was only vegetables. Maybe ten dollarrs or so, maybe
28 more. Can I leave now?" Respondent stated she is currently employed as a nurse and has money.

1 She stated she might have a problem "stealing things." She admitted to taking tomatoes, onions,
2 wrappers, hamburger meat and juice.

3 17. As a result of the conviction, Respondent was placed on 3 years informal probation,
4 ordered to complete 19 days of physical labor for CalTrans in lieu of 19 days in jail, ordered to
5 stay away from all Ralph's Grocery Stores in Orange County, and ordered to pay \$100 in fines
6 and fees and pay \$100 in restitution.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Commission of an Act Involving Dishonesty on December 21, 2008)**

9 18. Respondent is subject to disciplinary action under Code section 2878, subdivision (j),
10 for commission of an act involving dishonesty when Respondent stole from the Ralphs Grocery
11 Store on December 21, 2008, as more fully set for in paragraphs 13 – 16 above and incorporated
12 by this reference as though set forth in full herein.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct on December 21, 2008)**

15 19. Respondent is subject to disciplinary action under Code section 2878, subdivision (a),
16 for unprofessional conduct when she stole from the Ralphs Grocery Store on December 21, 2008,
17 as more fully set for in paragraphs 13 – 16 above and incorporated by this reference as though set
18 forth in full herein.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(February 2, 2012 Conviction of Theft with Prior Convictions)**

21 20. Respondent is subject to disciplinary action under Code sections 490 and 2878,
22 subdivision (f), for conviction of a crime that is substantially related to the qualifications,
23 functions and duties of a licensed vocational nurse in that on February 2, 2012, in the *People of*
24 *the State of California, v Freba Ebrahim*, Orange County Superior Court-Central Justice Center,
25 Case No. 11CM12651, Respondent was convicted on her guilty plea of theft with prior
26 convictions, in violation of Penal Code sections 484(a)-488 and 661(a), a misdemeanor.

27 21. The circumstances are as follows. On or about August 15, 2011, Officer M. of the
28 Tustin Police Department was dispatched to the Ralphs Grocery Store in Tustin with regard to a

1 shoplifting that had just occurred. Dispatch advised that the suspect fled the store in a white Ford
2 Explorer and identified the vehicle's license plate number. Officer M. went to the Ralphs
3 Grocery Store while Officer S. went to the suspect's residence.

4 22. C.C., the store manager, had been investigating reports from various store employees
5 that Respondent was shoplifting from the store. Respondent had been a regular store customer
6 for about four years. Respondent typically entered the store with a large, empty purse and used
7 the self check-out register where there were no employees. Respondent paid for some of the
8 items but not all and would place the unpaid items with the paid items in the plastic grocery bags
9 or her purse and then exit the store. C.C. had seen a store video from August 13, 2011 showing
10 Respondent sliding items from a shelf into her empty purse and exiting the store without paying
11 for the items.

12 23. On August 15, 2011, C.C. recognized Respondent when she entered the store with a
13 large purse. C.C. observed Respondent as she selected three items from the frozen food section,
14 placed them in a shopping cart and went to the self check-out register. C.C. observed Respondent
15 pay cash for two small items but concealed the third item under the store's newspaper
16 advertisement. Respondent left the store without paying for the third item. C.C. followed
17 Respondent out of the store and told Respondent that she hadn't paid for all of the items, while
18 taking down Respondent's license plate number. Respondent became argumentative, telling C.C.
19 that she forgot to pay but also that she didn't have the money. When C.C. told Respondent she
20 was going to call the police, Respondent tried to take away the pen and paper away from C.C. but
21 could not. C.C. grabbed the stolen item Respondent had in her shopping cart. Respondent then
22 got in her car and fled. C.C. reported her observations to Officer M. after he arrived at the store.

23 24. Officer M. then went to Respondent's home and brought her to the police station.
24 When questioned about what happened, Respondent vacillated between admitting guilt and
25 arguing about her arrest. When asked if Respondent stole the chicken from Ralphs, Respondent
26 responded by stating it depended on what the definition of stealing was. When asked if she exited
27 the store without paying, Respondent stated, "O.K. that's true, you're right. I took the chicken."
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25. As a result of the conviction, Respondent was placed on 3 years informal probation, ordered to serve 60 days in jail, ordered to complete the Nancy Clark program, pay restitution, ordered to stay at least 100 yards away from all Ralph's Grocery Stores in Orange County, and ordered to pay \$215 in fines and fees.

FIFTH CAUSE FOR DISCIPLINE

(Commission of an Act Involving Dishonesty on December 21, 2008)

26. Respondent is subject to disciplinary action under Code section 2878, subdivision (j), for commission of an act involving dishonesty when Respondent stole from the Ralphs Grocery Store on August 15, 2011, as more fully set for in paragraphs 21 – 24 above and incorporated by this reference as though set forth in full herein.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct on August 15, 2011)

27. Respondent is subject to disciplinary action under Code section 2878, subdivision (a), for unprofessional conduct when she stole from the Ralphs Grocery Store on August 15, 2011, as more fully set for in paragraphs 21 – 24 above and incorporated by this reference as though set forth in full herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 155050, issued to Freba Ebrahim;

2. Ordering Freba Ebrahim to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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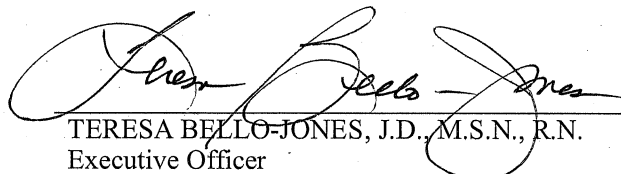
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3. Taking such other and further action as deemed necessary and proper.

DATED: **APR 09 2013**



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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